

HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION NO.283 OF 1994.

Date of decision: 15.11.1995.

For approval and signature

The Honourable Mr. Justice S.M.Soni

and

The Honourable Mr. Justice R.R.Jain

Mr.I.S.Supehia, advocate for petitioner.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram:S.M.Soni & R.R.Jain, JJ.

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November 15, 1995.

Oral judgment (Per Soni, J.)

Learned advocate for the parties are absent.

Alleging noncompliance of the order of this Court in LPA No.224/84, the applicant has filed the present application for taking action under the Contempt of the Courts Act. This Court, in Special Civil Application No.106/78, has ordered as under:

"I set aside the tentative seniority list of Class III employees of the Head office staff of Sabarmati district published by the railway administration vide their office letter dated 27.7.1977 so far as the petitioner is concerned and the respondent is directed to grant appropriate seniority in accordance with the observations made above."

The said order is challenged in LPA and the LPA court has passed the following order:

"(i) The tentative seniority list of Class III employees of the Head office staff at Sabarmati District published by the railway administration vide their office letter dated 27.7.1977, so far as the petitioner is concerned, is quashed.

(ii) The respondents are directed to reconsider the question of seniority taking note of implications of the judgment of the High Court of Bombay on the aspect and to fix the seniority of the petitioner in accordance with law.

(iii) The respondents shall do the reconsideration and fixation of the seniority of the petitioner as above as expeditiously as possible, preferably within six months from today."

Thereafter the applicant requested the respondents to comply with the said order. He was replied by letter dated 1.8.1993 to the following effect:

"As per directive of the High Court the seniority as on 3.11.1959 is required to be taken as the basis for bifurcation purposes. Since you were transferred on your own request in 1963 you could not have the benefit of your being in the MX Unit in 1959. It is also made clear that had you been in the MX Unit, you could have availed the benefit of the judgment of the Bombay High Court in that Unit i.e., DCOS/MX.

You have opted for non ministerial cadre as per your option in the revised bifurcation scheme notified by GM (E) CCG vide his letter No.E/1030/91/1 Vol.III dated 15.12.82 and your seniority has been correctly assigned and the seniority published vide DCOS:SBI's letter No.E/1030/1 dated 27.7.1977 has already been quashed on being implementation of revised bifurcation scheme notified vide GM(E) CCG's letter No.E/1030/9/1 Vol.III dated 15.12.82."

In view of the above reply, when the respondents have given all the details at the request of the applicant that he has lost certain benefits of seniority as his seniority was not considered, the fact that the question of seniority is not considered cannot be said to be a wilful disobedience of the order of this Court. The allegation of the petitioner that the above would constitute breach of the order of this court cannot be said to be wilful disobedience as it does not fall within the definition of Section 2 (b) of the Contempt of the Courts Act.

In view of the above facts, this application is liable to be dismissed and is hereby dismissed. Rule discharged. No costs.